

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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GAUTAM PATEL, JALAL BHUIYAN, :  
CONRAD DSOUZA, VICTOR MONTEIRO, :  
SIMON MALDONADO, MOHAMMED FARID UDDIN, :  
FAYSAL ABEDIN, ABDUL ALI, JAVIER :  
SOBERAN PEREZ, MOHAMMED TAHER, :  
RAJINDER SINGH, HARJINDER SINGH, :  
JESUS MALDONADO, SANTIAGO REYES, :  
ANWAR HUSSAN MALIK, MOHAMMED JAHANGIR :  
ALAM, NEVILLE PEREIRA, and :  
ALFREDO ("PABLO JUNIOR") MALDONADO, on :  
behalf of themselves individually and all others similarly :  
situated, :

Plaintiffs, :

v. :

BALUCHI'S INDIAN RESTAURANT, :  
KRAJ FOODS, INC., d/b/a/ :  
BALUCHI'S, PARAMOUNT FOODS, INC., d/b/a/ :  
BALUCHI'S, GATEWAY FOODS, INC, d/b/a/ :  
BALUCHI'S, DOES 1-10, d/b/a/ BALUCHI'S and :  
RAKESH AGGARWAL :

Defendants. :

Civ. Action No.:  
08 CIV 9985 (RJS)

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**NOTICE OF MOTION TO DISMISS THE RULE 23 CLASS CLAIMS AND FOR**  
**LEAVE TO AMEND COMPLAINT**

On May 4, 2011, the Court denied final approval of the proposed settlement of this wage and hour litigation. In accordance with the Court's findings at the hearing on final approval that the Rule 23 class claims asserted in this action lack superiority, Plaintiffs hereby move to dismiss the Rule 23 class claims from the Second Amended Complaint.

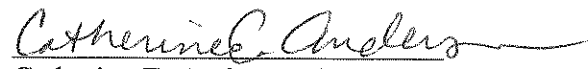
Plaintiffs additionally request leave pursuant to the Federal Rules of Civil Procedure, Rule 15(a), to amend the Second Amended Complaint in order to: (1) remove the Rule 23 class claims; and (2) include individual claims for wage and hour violations under the New York Labor Laws on

behalf of those claimants who filed timely claims to participate in the proposed Rule 23 class settlement and who desire to pursue their New York Labor Law wage and hour claims individually through this litigation.

Should Plaintiffs' motion be granted, Plaintiffs' counsel requests: (1) permission from the Court to contact the eighteen individual claimants who filed timely claims pursuant to the proposed Rule 23 class settlement in order to inform them of the dismissal of the Rule 23 class claims and provide them the opportunity to join this action by asserting their individual claims under the New York Labor Laws in the Third Amended Complaint to be filed in this action; and (2) that Plaintiffs will file the Third Amended Complaint within sixty days of the Court's order.

Dated: June 29, 2011  
New York, New York

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